

AMENDED IN SENATE JUNE 9, 2003
AMENDED IN ASSEMBLY APRIL 7, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 310

**Introduced by Assembly Member Kehoe
(Coauthor: Assembly Member Goldberg)**

February 7, 2003

An act to add Sections ~~33050, 45062, 45168.5, 87835, 45061.5,~~
~~45168.5, 87834.5,~~ and 88167.5 to the Education Code, relating to
school employees.

LEGISLATIVE COUNSEL'S DIGEST

AB 310, as amended, Kehoe. Employee bargaining units: salary deductions.

Existing law requires the governing board of a school district and the governing board of a community college district that deduct employee organization membership dues or service fees from the salary payment of an employee of the district to transmit the amount of the deduction to the organization. Existing law requires that classified employee dues be transmitted on the same designated date of each month and that certificated employee dues be transmitted no later than the 15th day of each pay period.

This bill would require the governing board of a school district and the governing board of a community college district that collect or deduct dues, agency fees, fair share fees, or any other fee or amount of money from an employee's salary for the purpose of transmitting the money to an employee organization, to transmit the money to the

employee organization within 15 days of issuing the paycheck containing the deduction. *The bill would prohibit a school district and a county office of education from requesting, and the State Board of Education from granting, a waiver of compliance with this provision.*

~~Existing law authorizes the governing board of a school district and a county board of education to request the State Board of Education to waive provisions of the Education Code and implementing regulations adopted by the State Board of Education except certain enumerated provisions and requires the State Board of Education to approve requests for waivers unless the board makes certain findings.~~

~~This bill would prohibit the request for, and the granting of, a waiver of the provisions regarding the transmittal of fees and dues required pursuant to the bill.~~

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 ~~SECTION 1. Section 33050 of the Education Code is~~
- 2 ~~amended to read:~~
- 3 ~~33050. (a) The governing board of a school district or a~~
- 4 ~~county board of education, on a districtwide or countywide basis~~
- 5 ~~or on behalf of one or more of its schools or programs, after a~~
- 6 ~~public hearing on the matter, may request the State Board of~~
- 7 ~~Education to waive all or part of any section of this code or any~~
- 8 ~~regulation adopted by the State Board of Education that~~
- 9 ~~implements a provision of this code that may be waived, except:~~
- 10 ~~(1) Article 1 (commencing with Section 15700) and Article 2~~
- 11 ~~(commencing with Section 15780) of Chapter 4 of Part 10;~~
- 12 ~~(2) Chapter 6 (commencing with Section 16000) of Part 10;~~
- 13 ~~(3) Chapter 12 (commencing with Section 17000), Chapter~~
- 14 ~~12.5 (commencing with Section 17070.10), and Chapter 14~~
- 15 ~~(commencing with Section 17085) of Part 10;~~
- 16 ~~(4) Part 13 (commencing with Section 22000);~~
- 17 ~~(5) Section 35735.1;~~
- 18 ~~(6) Paragraph (8) of subdivision (a) of Section 37220;~~
- 19 ~~(7) The following provisions of Part 10.5 (commencing with~~
- 20 ~~Section 17211):~~
- 21 ~~(A) Chapter 1 (commencing with Section 17211);~~

~~(B) Article 1 (commencing with Section 17251) to Article 6 (commencing with Section 17365), inclusive, of Chapter 3.~~

~~(C) Sections 17416 to 17429, inclusive; Sections 17459 and 17462 and subdivision (a) of Section 17464; and Sections 17582 to 17592, inclusive.~~

~~(8) The following provisions of Part 24 (commencing with Section 41000):~~

~~(A) Sections 41000 to 41360, inclusive.~~

~~(B) Sections 41420 to 41423, inclusive.~~

~~(C) Sections 41600 to 41866, inclusive.~~

~~(D) Sections 41920 to 42911, inclusive.~~

~~(9) Sections 44504 and 44505.~~

~~(10) Article 3 (commencing with Section 44930) of Chapter 4 of Part 25 and regulations in Title 5 of the California Code of Regulations adopted pursuant to Article 3 (commencing with Section 44930) of Chapter 4 of Part 25.~~

~~(11) Sections 45062 and 45168.5.~~

~~(12) Part 26 (commencing with Section 46000).~~

~~(13) Chapter 6 (commencing with Section 48900) and Chapter 6.5 (commencing with Section 49060) of Part 27.~~

~~(14) Section 51513.~~

~~(15) Chapter 6.10 (commencing with Section 52120) of Part 28, relating to class size reduction.~~

~~(16) Section 52163.~~

~~(17) The identification and assessment criteria relating to any categorical aid program, including Sections 52164.1 and 52164.6.~~

~~(18) Sections 52165, 52166, and 52178.~~

~~(19) Article 3 (commencing with Section 52850) of Chapter 12 of Part 28.~~

~~(20) Section 56364.1, except that this restriction shall not prohibit the State Board of Education from approving any waiver of Section 56364 or Section 56364.2, as applicable, relating to full inclusion.~~

~~(21) Article 4 (commencing with Section 60640) of Chapter 5 of Part 33, relating to the STAR Program, and any other provisions of Chapter 5 (commencing with Section 60600) of Part 33 that establish requirements for the STAR Program.~~

~~(b) Any waiver of provisions related to the programs identified in Section 52851 shall be granted only pursuant to Article 3 (commencing with Section 52850) of Chapter 12 of Part 28.~~

~~(c) The waiver of an advisory committee required by law shall be granted only pursuant to Article 4 (commencing with Section 52870) of Chapter 12 of Part 28.~~

~~(d) Any request for a waiver submitted by the governing board of a school district or a county board of education pursuant to subdivision (a) shall include a written statement as to both of the following:~~

~~(1) Whether the exclusive representative of employees, if any, as provided in Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code, participated in the development of the waiver.~~

~~(2) The exclusive representative's position regarding the waiver.~~

~~(e) Any request for a waiver submitted pursuant to subdivision (a) relating to a regional occupational center or program established pursuant to Article 1 (commencing with Section 52300) of Chapter 9 of Part 28, that is operated by a joint powers entity established pursuant to Chapter 5 (commencing with Section 6500) of Division 7 of Title 1 of the Government Code, shall be submitted as a joint waiver request for each participating school district and shall meet both of the following conditions:~~

~~(1) Each joint waiver request shall comply with all of the requirements of this article.~~

~~(2) The submission of a joint waiver request shall be approved by a unanimous vote of the governing board of the joint powers agency.~~

~~(f) The governing board of any school district requesting a waiver under this section of any provision of Article 5 (commencing with Section 39390) of Chapter 3 of Part 23 shall provide written notice of any public hearing it conducted pursuant to subdivision (a), at least 30 days prior to the hearing, to each public agency identified under Section 39394.~~

~~SEC. 2. Section 45062~~

~~SECTION. 1. Section 45061.5 is added to the Education Code, to read:~~

~~45062.—~~

~~45061.5. (a) Notwithstanding any other law, the governing board of a school district that collects or deducts dues, agency fees, fair share fees, or any other fee or amount of money from the salary of a certificated employee for the purpose of transmitting the~~

1 money to an employee organization shall transmit the money to the
2 employee organization within 15 days of issuing the paycheck
3 containing the deduction to the employee.

4 (b) (1) This section does not limit the right of an employee
5 organization or affected employee to sue for a failure of the
6 employer to transmit dues or fees pursuant to this section.

7 (2) In an action brought for a violation of subdivision (a), the
8 court shall award reasonable attorney fees and costs to the
9 prevailing party if any party to the action requests attorney fees and
10 costs upon the initiation of the action.

11 ~~SEC. 3.—~~

12 *(c) A school district or county office of education may not*
13 *request, and the State Board of Education may not grant, a waiver*
14 *of compliance with this section.*

15 *SEC. 2.* Section 45168.5 is added to the Education Code, to
16 read:

17 45168.5. (a) Notwithstanding any other law, the governing
18 board of a school district that collects or deducts dues, agency fees,
19 fair share fees, or any other fee or amount of money from the salary
20 of a classified employee for the purpose of transmitting the money
21 to an employee organization shall transmit the money to the
22 employee organization within 15 days of issuing the paycheck
23 containing the deduction to the employee.

24 (b) (1) This section does not limit the right of an employee
25 organization or affected employee to sue for a failure of the
26 employer to transmit dues or fees pursuant to this section.

27 (2) In an action brought for a violation of subdivision (a), the
28 court shall award reasonable attorney fees and costs to the
29 prevailing party if any party to the action requests attorney fees and
30 costs upon the initiation of the action.

31 (c) This section applies to districts that have adopted the merit
32 system in the same manner and effect as if it were a part of Article
33 6 (commencing with Section 45240).

34 ~~SEC. 4.—Section 87835~~

35 *(c) A school district or county office of education may not*
36 *request, and the State Board of Education may not grant, a waiver*
37 *of compliance with this section,*

38 *SEC. 3.* Section 87834.5 is added to the Education Code, to
39 read:

40 87835.—

1 87834.5. (a) Notwithstanding any other law, the governing
2 board of a community college district that collects or deducts dues,
3 agency fees, fair share fees, or any other fee or amount of money
4 from the salary of an academic employee for the purpose of
5 transmitting the money to an employee organization shall transmit
6 the money to the employee organization within 15 days of issuing
7 the paycheck containing the deduction to the employee.

8 (b) (1) This section does not limit the right of an employee
9 organization or affected employee to sue for a failure of the
10 employer to transmit dues or fees pursuant to this section.

11 (2) In an action brought for a violation of subdivision (a), the
12 court shall award reasonable attorney fees and costs to the
13 prevailing party if any party to the action requests attorney fees and
14 costs upon the initiation of the action.

15 ~~SEC. 5.—~~

16 *SEC. 4.* Section 88167.5 is added to the Education Code, to
17 read:

18 88167.5. (a) Notwithstanding any other law, the governing
19 board of a community college district that collects or deducts dues,
20 agency fees, fair share fees, or any other fee or amount of money
21 from the salary of a classified employee for the purpose of
22 transmitting the money to an employee organization shall transmit
23 the money to the employee organization within 15 days of issuing
24 the paycheck containing the deduction to the employee.

25 (b) (1) This section does not limit the right of an employee
26 organization or affected employee to sue for a failure of the
27 employer to transmit dues or fees pursuant to this section.

28 (2) In an action brought for a violation of subdivision (a), the
29 court shall award reasonable attorney fees and costs to the
30 prevailing party if any party to the action requests attorney fees and
31 costs upon the initiation of the action.

32 (c) This section applies to districts that have adopted the merit
33 system in the same manner and effect as if it were a part of Article
34 6 (commencing with Section 88060).